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**FACSIMILE TRANSMISSION**

To: Mr. Fred Silverberg Date: September 14, 1999  
Fax #: 9-1-703-308-6916 Pages: 8  
From: John S. Sensny  
Re: Ted Christopher  
U.S. Serial No. 08/746,360  
Filed: November 8, 1996  
FINITE AMPLITUDE DISTORTION-  
BASED INHOMOGENEOUS PULSE  
ECHO ULTRASONIC IMAGING  
Examiner: F. Jaworski  
Art Unit: 3305  
Our Docket: 9872

**COMMENTS:**

We are transmitting herewith the summary of the arguments we presented at the September 9, 1999 hearing.

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TRANSMITTAL LETTER  
(General - Patent Pending)Docket No.  
9872

In Re Application Of: Ted Christopher

Serial No.  
08/746,360

Filing Date

Examiner

Group Art Unit

Title: FINITE AMPLITUDE DISTORTION-BASED INHOMOGENEOUS PULSE ECHO ULTRASONIC  
IMAGINGTO THE ASSISTANT COMMISSIONER FOR PATENTS:

Transmitted herewith is:

**Summary of Arguments Presented At The Hearing On Petition For The Institution Of A Public Use Proceeding**

In the above identified application.

No additional fee is required.

A check in the amount of \_\_\_\_\_ is attached.

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John S. Sensny  
*Signature*

Dated: September 14, 1999

John S. Sensny  
Registration No: 28,757SCULLY, SCOTT, MURPHY & PRESSER  
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## PATENTS

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Ted Christopher

Docket: 9872

Serial No.: 08/746,360

Dated: September 14, 1999

For: FINITE AMPLITUDE DISTORTION-  
BASED INHOMOGENEOUS PULSE  
ECHO ULTRASONIC IMAGINGAssistant Commissioner for Patents  
Washington, DC 20231Attn: Mr. Fred Silverberg  
Special Program Law Office of the Office of the  
Deputy Assistant Commissioner for Patent Policy and  
ProjectsSummary of Arguments Presented At The Hearing On Petition  
For The Institution Of A Public Use Proceeding

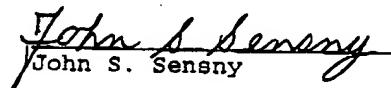
Sir:

This is to summarize the arguments made by Applicant at the September 9, 1999 hearing on the above-identified Petition.

Applicant believes that the Examiner's determination of a prima facie case of prior public use, should be

CERTIFICATION OF FACSIMILE TRANSMISSION

I hereby certify that this paper is being facsimile transmitted to the Patent and Trademark Office on the date shown below.

Dated: September 14, 1999  
John S. Sensny

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reconsidered or reviewed before any public use proceeding is begun.

The Examiner's determination of a prima facie case of prior public use is a necessary condition to the institution of the public use proceeding. Such a proceeding would be a significant burden, both in time and cost, to the Applicant and to the Patent Office. Further, it is contended that this burden is also unnecessary in light of the evidence of record. It is appropriate and prudent to have administrative review or reconsideration of the Examiner's decision before the patent Office initiates a lengthy, expensive and unnecessary proceeding.

In contrast to the substantial burden that would be caused by the Public Use Proceeding, the burden on the Patent Office caused by having the Examiner reconsider his determination is comparatively minimal. This is due to the Examiner's present knowledge of the technology claimed in this application and of the facts alleged in the materials submitted with the Petition for the Public Use Proceeding.

According to MPEP §720.03, the September 9 hearing amounts to an order to show cause why a public use proceeding should not be held. Applicant has thus far had no opportunity to rebut the Examiner's conclusion of a prima facie case of

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prior public use, and the public use proceeding should not go forward until Applicant has had that opportunity.

At the hearing on September 9, it was noted that the claims of the application are not presently rejected, and might never be rejected, on the basis of the materials submitted with the Petition to institute the public use proceeding. It must be emphasized, however, that any public use proceeding will significantly delay the issuance of a Patent for Applicant's invention, and thus will significantly reduce the term of that Patent. This will happen regardless of whether the present claims are ever rejected on the basis of any evidence submitted in connection with that proceeding. Because of this significant reduction of the patent term, the public use proceeding will cause the loss of substantive patent rights of the Applicant. Before the Patent Office makes a decision that affects substantive rights of the Applicant, administrative due process requires that the Applicant be given an opportunity to have the Examiner's decision reviewed.

Applicant has sent to the Examiner a formal request that the Examiner reconsider the determination of a prima facie case of prior public use. That request contains a careful analysis of the materials relied on by the Examiner and of the relevant legal issues, and explains in detail why the determination should be reconsidered and withdrawn. Applicant

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has also submitted a separate Petition under 37 C.F.R. §1.182, or in the alternative under 37 C.F.R. §1.183, to authorize or allow the Examiner to reconsider that determination.

In conclusion, a public use proceeding is likely to be a lengthy and expensive procedure. Also, the fact that this proceeding occurs, regardless of its outcome, would significantly delay issuance of Applicant's Patent and thus adversely affects the Applicant's substantive rights. Applicant submits that before the Patent Office starts down this path, Applicant should be afforded the opportunity to have the Examiner's decision reconsidered or reviewed.

Respectfully submitted,

*John S. Sensny*  
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of this Summary of Arguments has been sent to William A. Webb, attorney of Acuson Corporation, on September 14, 1999, by facsimile and first class mail at the following address:

William A. Webb, Esq.  
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Date: September 14, 1999

*John S. Sensny*  
John S. Sensny

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